

**UNITED STATES DISTRICT COURT**

## EASTERN DISTRICT OF TEXAS

ROGER LAVOY DODD,

Petitioner,

*versus*

DIRECTOR, TDCJ-CID,

Respondent.



CIVIL ACTION NO. 9:23-CV-146

## MEMORANDUM OPINION AND ORDER

A Final Judgment was previously entered dismissing this petition for writ of habeas corpus. In dismissing the petition, the court overruled objections petitioner filed to a Report and Recommendation of United States Magistrate Judge.

Petitioner has now filed a motion seeking leave to file a second set of objections to the Report and Recommendation. As the motion was filed within 28 days of the date on which the Final Judgment was entered, the court will liberally construe the motion as a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e). Generally, a Rule 59(e) motion must clearly establish either a manifest error of law or fact or must present newly discovered evidence. *Rosenzweig v. Azurix Corp.*, 332 F.3d 854, 863 (5th Cir. 2003); *Simmons v. United States*, 891 F.2d 1154, 1159 (5th Cir. 1990).

Petitioner continues to maintain he is entitled to be released from prison. His argument is based on the assertion that if he had received two economic impact payments under the Coronavirus Aid, Relief and Economic Security Act, he would have been able to rent an apartment and would have therefore been eligible for release on parole.

As the court previously stated, petitioner's assertion regarding his release on parole is speculative. He has therefore failed to demonstrate a finding in his favor would show that the fact or duration of his confinement is unconstitutional and is, accordingly, not able to assert his claim in a petition for writ of habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475, 483 (1973).

Plaintiff has not presented any new evidence. Further, he has failed to demonstrate that the dismissal of his lawsuit constituted a manifest error of law or fact. It is accordingly

**ORDERED** that motion to alter or amend judgment (#7) is **DENIED**.

SIGNED at Beaumont, Texas, this 22nd day of August, 2024.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE